

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS (Boston)

No. 1:23-cv-10511-WGY
Vol. 2, Pages 65-156

UNITED STATES OF AMERICA, et al
Plaintiffs

vs.

JETBLUE AIRWAYS CORPORATION,
et al,
Defendants

For Bench Trial Before:
Judge William G. Young

United States District Court
District of Massachusetts (Boston)
One Courthouse Way
Boston, Massachusetts 02110
Tuesday, October 31, 2023

REPORTER: CHERYL B. PALANCHIAN, RMR, CRR
Official Court Reporter
United States District Court
One Courthouse Way, Boston, MA 02110

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I N D E X

WITNESS: DIRECT CROSS REDIRECT RECROSS

EDWARD CHRISTIE

By Mr. Teitelbaum 69

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1 THE CLERK: Court is back in session. You may be
2 seated.

3 THE COURT: Now, something before we commence with
4 this witness. I understand that this witness is the chief
5 officer, executive officer of Spirit. There is a motion to
6 exclude certain -- and it was late disclosed -- changes of
7 route, but the motion is denied. This situation is dynamic.
8 It's denied with these provisos, that if the government
9 thinks it's necessary to recall this witness during the
10 course of the trial, I will allow it.

11 All right.

12 MR. TEITELBAUM: Good morning. Your Honor, Aaron
13 Teitelbaum for the United States.

14 THE CLERK: Can you please stand and raise your
15 right hand?

16 EDWARD CHRISTIE, sworn

17 THE COURT: Go ahead.

18 MR. TEITELBAUM: Thank you.

19 DIRECT EXAMINATION

20 BY MR. TEITELBAUM:

21 Q. Good morning, Mr. Christie.

22 A. Good morning.

23 Q. How are you doing today?

24 A. Fine, thank you.

25 Q. You currently serve as the chief executive officer and

1 president of Spirit Airlines; is that right?

2 A. Yes.

3 Q. And you've held those positions since 2019?

4 A. Correct.

5 Q. I just want to briefly talk about your duties and
6 responsibilities as chief executive officer and president.

7 Fair to say that you generally oversee all the business
8 operations of Spirit Airlines?

9 A. Yes.

10 Q. And you also sit on the board of directors; right?

11 A. I am, yes.

12 Q. Do you also report to the board of directors in
13 addition to serving on it?

14 A. I do, yes.

15 Q. Before you were the chief executive officer of Spirit,
16 you served as its chief financial officer; is that right?

17 A. Correct.

18 Q. Have you also worked at other airlines?

19 A. I have.

20 Q. Could you just briefly outline for the Court where
21 you've worked?

22 A. I joined the aviation industry in late 2002 at Frontier
23 Airlines. I worked there for about eight years and finished
24 as the chief financial officer there. And then after a
25 brief hiatus out of the industry, I joined Pinnacle

1 Airlines, which is a regional provider for the larger
2 network airlines. I was there for about a year until I
3 joined Spirit in 2012.

4 Q. All right. I'm going to have some questions for you
5 about Spirit's business model and how it operates as an
6 airline.

7 MR. TEITELBAUM: But before I do that, actually,
8 your Honor, with the Court's permission could we approach
9 the witness and the bench with exhibit binders?

10 THE COURT: Yes, of course. And that may be done
11 throughout.

12 MR. TEITELBAUM: Understood.

13 THE COURT: I've had cases where we had a bunch of
14 binders and I'm fine with it. I can recall the binders were
15 both for myself and for my law clerks, and I'm fine with
16 that. But when you start giving the law clerks the binders
17 before you give them to me, I'm not fine with that.

18 (Hanging.)

19 Q. I'm sorry for that brief interruption, Mr. Christie.

20 There's no need for you to refer to those binders yet,
21 but they do have some documents that we're likely to discuss
22 during your examination, so I'll ask you if there's a time
23 that it makes sense to refer to them.

24 But before we get to Spirit's business model, I'd just
25 like to talk briefly about why we're here today. Under the

1 terms of the proposed transaction that's at issue in this
2 case, JetBlue is going to acquire Spirit Airlines; right?

3 A. Correct.

4 Q. And the combined carrier is going to operate as a
5 larger JetBlue?

6 A. That's my understanding, yes.

7 Q. And before the merger agreement with JetBlue was
8 approved by shareholders, there had previously been a merger
9 agreement with Frontier; is that fair?

10 A. Yes.

11 Q. And that was in the very early part of 2022?

12 A. February of 2022, yes.

13 Q. But ultimately Spirit's shareholders chose and approved
14 a combination with JetBlue; correct?

15 A. Correct.

16 Q. All right. We'll come back to that a little bit more
17 later.

18 Let's turn to talk about Spirit's business model and
19 how it operates for a bit. Spirit is the largest ultra
20 low-cost carrier in the United States; is that fair?

21 A. We believe so, yes.

22 Q. And that's at least in terms of capacity and fleet?

23 A. I think in both measures, yes.

24 Q. Now, we've already heard the term ultra low-cost
25 carrier, or ULLC, used throughout opening statements, for

1 instance, but when there's a reference to cost in that
2 acronym, that's a reference to unit operating costs; is that
3 correct?

4 A. That's correct, yes.

5 Q. And fair to say that we have a typical measure of unit
6 operating costs in the airline industry?

7 A. We do.

8 Q. Is that cost per available seat mile?

9 A. That's correct.

10 Q. Usually referenced as CASM?

11 A. Yes.

12 Q. Could you just briefly explain to the Court what CASM
13 is in layman's terms?

14 A. I think you have to start with what the unit of measure
15 is, which is an available seat mile. So that's one seat
16 traveling one mile is the way the industry refers to its
17 capacity. And then cost per available seat mile is
18 basically your total operating expenses divided by the total
19 capacity of the industry reducing that to a unit measure.

20 Q. And it's a way of taking into account a carrier's
21 operating cost versus how much it actually flies; is that
22 fair?

23 A. It's -- yeah. And I guess the simplest way to describe
24 it is you're unitizing your cost structure to make it easier
25 to understand your business.

1 Q. So we've now talked about the term ULLC or ultra
2 low-cost carrier. There are other categories of airlines
3 operating in the United States; would you agree with that?

4 A. Yeah, I think that's fair to say.

5 Q. So, for instance, are you familiar with the term
6 "network carrier"?

7 A. Yes.

8 Q. Some people also would say "legacy carrier" instead of
9 "network"; is that right?

10 A. That's correct.

11 Q. Could you please identify to the Court the legacy
12 carriers that are operating in the United States?

13 A. Those are commonly referred to as Delta, American and
14 United.

15 Q. There's also a label called "low-cost carriers"; right?

16 A. Yes.

17 Q. And that's LCC, as opposed to ULCC?

18 A. Yes.

19 Q. Would you put JetBlue and Southwest into those
20 categories?

21 A. I would.

22 Q. And what about Alaska?

23 A. I would also put them in that category, yes.

24 Q. Are you also familiar with the term "hybrid carrier"?

25 A. I've seen it referenced that way, yes.

1 Q. And fair to say that a hybrid carrier is an airline
2 that has some attributes of a legacy and some attributes of
3 a low-cost carrier?

4 A. I'm guessing at this point because I don't define them
5 that way.

6 THE COURT: You can't guess. So -- it's more than
7 semantic. So if it comes into your mind you're guessing, I
8 can't rely on it. But you are perfectly allowed to
9 estimate, you're perfectly allowed to say my best opinion
10 is, given your background. But "guess" is a red flag for
11 me.

12 THE WITNESS: Fair enough.

13 A. I don't refer to carriers as hybrids, but my best
14 estimate would be that there are some that are referred to
15 that way, yes.

16 Q. And is it your understanding that there are some in the
17 industry who refer to JetBlue as a hybrid?

18 A. I have seen that, yes.

19 Q. So now let's talk about the other ultra low-cost
20 carriers operating in the United States besides Spirit.
21 Fair to say we have Frontier?

22 A. Yes.

23 Q. Sun Country?

24 A. Yes.

25 Q. Allegiant?

1 A. Yes.

2 Q. And what about Avelo, would you put them in the same
3 category?

4 A. I would, yes.

5 Q. They're a fairly recently established airline; right?

6 A. Yes, relatively recent. Yes.

7 Q. What about Breeze Airlines?

8 A. I don't know that I would necessarily categorize them
9 as a ultra low-cost carrier. They have some elements of
10 that business model but they also do introduce some
11 differences that are not traditionally ultra low cost.

12 Q. They have some more premium aspects to them, in other
13 words?

14 A. They do, yes.

15 Q. Let's talk now about some of the awards that Spirit has
16 won as an airline. Fair to say that in 2023 Spirit was the
17 value airline of the year, according to ATW?

18 A. ATW, yes.

19 Q. And Spirit has also won the APEX, or Airline Passenger
20 Experience Association four-star low-cost carrier award; is
21 that right?

22 A. We did.

23 Q. Both in 2022 and 2023?

24 A. That's correct.

25 Q. And that's actually an award that's based on passenger

1 feedback?

2 A. That's right, yes.

3 Q. And in 2021, Fortune stated -- or awarded Spirit,
4 world's most admired companies, among those companies; is
5 that right?

6 A. We were on the list, yes.

7 Q. And I believe you've mentioned in other statements, and
8 so have your colleagues, some fly-quiet awards that Spirit
9 has won?

10 A. We have won a few of those as well, yes.

11 Q. And that's just for having low noise levels at certain
12 airports?

13 A. Correct, yes.

14 Q. So Sea-Tac and Los Angeles Airport would be two of
15 those?

16 A. I think those were the two that come to the top of
17 mind, yes.

18 Q. So now let's talk a little bit more about Spirit's
19 business model as a ULLC. And fair to say that when you're
20 talking about Spirit's business model, you also sometimes
21 give investor presentations about how Spirit operates; is
22 that right?

23 A. We do, yes.

24 Q. And Spirit makes its best efforts to be accurate in the
25 investor presentations?

1 A. We do.

2 Q. All right. I'd ask that --

3 MR. TEITELBAUM: And before I do this, your Honor,
4 I just want to be careful, since this is the maiden voyage
5 with a witness for this trial. The parties have agreed to
6 the -- to not object to certain exhibits being admitted in
7 evidence. So the exhibit that I'm about to ask that
8 Mr. Christie see is one such exhibit, but I just wanted to
9 inquire if it would be appropriate for us still to offer
10 that exhibit in evidence?

11 THE COURT: Well, have we agreed upon exhibits
12 that will be admitted in evidence? And I take it there are
13 some, and others that are objected to. And the protocol
14 that I've always followed is to give numbers to those that
15 are agreed to and letters to the base twenty-six to those to
16 which there is no agreement.

17 We are going to follow the time limits here, so it
18 would behoove you all to sit down and have a list of all the
19 exhibits agreed to. I don't care who they come from.
20 There's not a government 1 and a defense 1, they're just --
21 just give them numbers. And when we get to letters, it's A
22 to Z, then AA, AB, not AA, BB. I once tried a case, we got
23 up to 7Q. It's very difficult to the court reporter. Now,
24 that's my protocol.

25 So have we followed that?

1 MR. TEITELBAUM: We have, absolutely, your Honor.

2 THE COURT: Okay. I thought so.

3 MR. TEITELBAUM: Mr. Cohen and I have had, and
4 there have been some conversations between the parties as
5 recently as last night about some additional exhibits that
6 are unobjected to and have been assigned numbers.

7 THE COURT: And, therefore, you need do nothing.
8 You need not offer them. If they have numbers then I am
9 accepting them as part of the record, and it will be my duty
10 to be conversant with them in making my findings of fact.

11 MR. COHEN: Your Honor, may I be heard briefly?

12 THE COURT: Yes.

13 MR. COHEN: There are two numbered exhibits that
14 we have advised the government, at least one of which I know
15 they're going to use with Mr. Christie, that we
16 inadvertently did not object to. There are 1400 exhibits
17 that the government gave us.

18 THE COURT: I have no problem.

19 MR. COHEN: So they have refused --

20 THE COURT: I accept your representation.

21 MR. COHEN: I'm going to object to those. There
22 are only two.

23 THE COURT: I appreciate it. And thank you,
24 Mr. Cohen.

25 MR. TEITELBAUM: Your Honor, the withdrawal of

1 those exhibits would be over the government's objection.

2 THE COURT: Well, I'm going to allow them to
3 withdraw and then we'll sort it out. But inadvertence is
4 understood. It's a complex case.

5 MR. TEITELBAUM: Understood, your Honor.

6 THE COURT: Go ahead.

7 MR. TEITELBAUM: So if we could show the witness
8 Exhibit 347.

9 (On screen.)

10 Q. And, Mr. Christie, it's up to you if you'd like to take
11 a look in the binder or not. It's also going to be pulled
12 up on the screen. I can tell you that this is an investor
13 presentation that you and Mr. Haralson gave that has some
14 cover e-mail correspondence.

15 THE COURT: Just a moment.

16 MR. TEITELBAUM: Absolutely, your Honor.

17 THE COURT: Excuse me. In a very real sense, I
18 work for Ms. Gaudet, who has properly advised me that under
19 your agreements certain exhibits are not to be thrown up on
20 the public screen. That's fine. But you must advise me as
21 to that so we're all clear as to how we're going forward.

22 So you're showing him Exhibit --

23 MR. TEITELBAUM: 347, your Honor.

24 THE COURT: Thank you.

25 Q. And, Mr. Christie, it's up to you if you'd like to look

1 in the binder.

2 MR. TEITELBAUM: But, specifically, could we
3 please show the witness pages 14 and 16 of that exhibit
4 which, for the record, are the Bates ending in 944 and 946.

5 (On screen.)

6 Q. And, Mr. Christie, take whatever time you need, but if
7 you'd also like to look on the screen there, you can see two
8 pages from that deck?

9 A. I see it on the screen.

10 Q. Okay.

11 A. And I'm now finally to the page.

12 Q. Understood. Do those look like two pages from an
13 investor presentation from November of 2022?

14 A. It does look like it, yes.

15 Q. It looks like you gave that presentation with Mr. Scott
16 Haralson, the chief financial officer of Spirit?

17 A. Yes.

18 Q. I'm going to have a few additional questions for you
19 about this exhibit.

20 MR. TEITELBAUM: So let's start with, if we could
21 please turn to the pages, the page ending in 959, Bates
22 number. And at this time there are no confidentiality
23 concerns with this page, so I would ask that it be published
24 to the gallery as well.

25 THE COURT: Well, the default is the other way.

1 Let's not waste time with things -- understand, this Court
2 has a very strong concern with trying this public trial
3 publicly. I've said that in the pretrial conference and I
4 insist on it. But I will honor your agreements as to
5 confidentiality by not throwing them up on the screen.

6 Go ahead.

7 MR. TEITELBAUM: Understood, your Honor, it's
8 certainly the government's preference as well for as much --

9 THE COURT: Well, you needn't -- when you've
10 just -- when you're with me, you need not gild the lily.

11 MR. TEITELBAUM: Understood.

12 THE COURT: Go ahead.

13 Q. Mr. Christie, this slide reflects here, as of
14 November 2022, what we were talking about before, that
15 Spirit's the largest ultra low-cost carrier in the Americas;
16 is that right?

17 A. Yes.

18 Q. And this also reflects the comparative fleet sizes of
19 the different carriers; right?

20 A. Yes.

21 Q. And so we see that as of November of 2022, Spirit was
22 at about 184 aircraft compared to 115, 116 for Frontier and
23 Allegiant?

24 A. Correct.

25 Q. And since November of 2022, Spirit's actually taken

1 delivery of more aircraft; is that right?

2 A. We have, yes.

3 MR. TEITELBAUM: All right. If we could go,
4 please, now to the slide ending in Bates number 960, which
5 is just the next slide.

6 Q. So we were talking about unit operating costs
7 previously. Fair to say that this is a graph reflecting a
8 comparison of CASM, or the unit operating costs for a
9 variety of airlines operating in the United States?

10 A. It represents CASM, excluding fuel, for the trailing
11 twelve months of the third quarter of '22. Correct.

12 Q. And that's one version of CASM that airlines sometimes
13 look at to exclude the volatility of fuel prices?

14 A. That's right.

15 Q. And on this graph here, Spirit, Allegiant and Frontier
16 are towards the bottom on the left?

17 A. Correct.

18 Q. And those are the carriers with the lowest unit
19 operating costs on this graph; right?

20 A. Yes.

21 Q. And then JetBlue is roughly in the middle with about
22 11.1 cents of CASM ex-fuel?

23 A. Yes.

24 Q. And the legacy carriers, United, Delta and American,
25 are up at the top right, or on the right-hand side with the

1 highest cost; is that fair?

2 A. Yes.

3 Q. And, in fact, based on the data from this November 2022
4 presentation, JetBlue's unit operating costs excluding fuel
5 are closer to the legacy airlines than they are to Spirit's;
6 right?

7 A. It appears so, yes.

8 Q. Let's go to the next slide which, for the record, is
9 the Bates ending in 961.

10 THE COURT: Where does this data come from? Is
11 this generally known throughout the industry?

12 THE WITNESS: Well, most of these airlines, in
13 fact, I think at this point all of them are public airlines,
14 so they report information in their SEC filings. And then
15 all the airlines consume that data and use it to --

16 THE COURT: So from the SEC filings, this
17 information and, therefore, this graph can be generated?

18 THE WITNESS: Yes, that's correct. And there are
19 additional sources of public data that we consume as well.
20 We make a significant number of reports to the Department of
21 Transportation, and often that data is used to help inform
22 investors and make comparisons.

23 THE COURT: Understood. Thank you.

24 THE WITNESS: Uhm-hmm.

25 Q. So turning to the slide ending in 961 now,

1 Mr. Christie, there's -- that's an "Explanation of how
2 Spirit keeps costs down"; right? That's the title of the
3 slide?

4 A. That's the title, yes.

5 Q. So I want to ask you a few questions about most but not
6 all of these bullet points here. So at the top left,
7 "High-seat density and asset utilization," would you mind
8 briefly explaining to the Court how those things contribute
9 to low operating costs?

10 A. Okay. The most expensive asset that an airline has is
11 its airplane, and the crews and labor to support that
12 aircraft. And so seat density is really a moniker for how
13 many seats are on the aircraft. If you put more seats on
14 the airplane, you spread the expenses associated with that
15 airplane and that crew over more seats, which gives you a
16 lower unit cost advantage.

17 And the second way that you can drive cost efficiency
18 with that expensive asset and those crews is to increase the
19 number of hours that airplane is in revenue service every
20 day, which is commonly referred to here as "asset
21 utilization." So the combination of relative density, or
22 number of seats on the airplane, plus how many hours you
23 operate does contribute to unit cost, to lowering your unit
24 cost.

25 Q. Thank you. And then if we could move on to

1 point-to-point itineraries. Could you briefly explain to
2 the Court how that contributes to keeping unit costs down?

3 A. I'll try to keep it brief again, but the idea here is
4 the network construct of each individual airline varies.
5 Point-to-point itineraries mean an airport is leaving any
6 individual city and going to its next. And it's turning the
7 airplane, removing passengers from that aircraft, and
8 putting new passengers on, and that aircraft is moving as
9 quickly as possible to its next destination, which keeps the
10 relative period of time on the ground lower.

11 In a more network construction, or a network airline
12 will build hub-and-spoke airlines, which the airplanes all
13 generally concentrate into a single large city. All those
14 airplanes arrive, passengers get off those airplanes and
15 connect to other aircraft on the ground, and then those
16 airplanes depart again. And that can cause you to have more
17 aircraft time on the ground waiting for people to connect
18 and transmit to other airlines, which is why that is
19 generally referred to as a higher cost approach.

20 Q. And so, for instance, the legacy airlines that we
21 discussed before typically operate a hub-and-spoke network;
22 is that accurate?

23 A. They do. And to be fair, Spirit does have some
24 elements of hub structure in its network today that -- in
25 certain cities. But largely we operate a point-to-point

1 type network.

2 Q. And the somewhat hub nature that you referred to for
3 Spirit's network, there's some hub activity in Fort
4 Lauderdale; is that fair?

5 A. We do have some -- we do structure our network in and
6 out of Fort Lauderdale with a hub-type structure, and we
7 have some limited hub-type structure also in Orlando and
8 Houston.

9 Q. But otherwise largely a point-to-point network for
10 Spirit?

11 A. Correct.

12 Q. Then, briefly, if we could move to, "Very low overhead
13 costs," if you could please explain to the Court what those
14 are referring to for Spirit's business model?

15 A. Well, "overhead" in this case, we're referring to those
16 fixed expenses that any business has to deliver its product
17 to its consumers. That would be members of the general and
18 administrative team, your headquarter's facilities, other
19 physical plant, those types of things. And Spirit strives
20 to remain as efficient as possible and keep its overhead
21 costs very low.

22 THE COURT: What about your ground personnel that
23 are not engaged in aircraft maintenance? I take it the
24 aircraft maintenance is dealt with in this high-seat
25 density. But what about your gate agents and people who

1 direct, take care of complaints and things like that? How
2 do you address that?

3 THE WITNESS: Well, it's an interesting concept
4 because there are elements of both your maintenance, your
5 crew, and your gate service personnel that are fixed in
6 nature. So, you know, there are times when they are not
7 efficient. They are sitting waiting for airplanes. They
8 are -- there's physical expense that doesn't get utilized in
9 your maintenance crew as well. So having high-seat density
10 and asset utilization assists in driving unit costs
11 throughout the business, but there are elements of fixed
12 expense across the board in some of those places you
13 mentioned.

14 THE COURT: Very well. Go ahead.

15 MR. TEITELBAUM: Thank you, your Honor.

16 Q. And Spirit has actually been effective at using a small
17 number of gates to generate a significant amount of traffic
18 at some of these airports; is that fair?

19 A. Yes. We, again, back to the asset-utilization concept,
20 one of the assets that you look to utilize to keep your
21 costs low is the physical plant or the gate itself. And so
22 we strive to turn more airplanes per day on a gate than an
23 average airline.

24 Q. And some other overhead costs that other airlines might
25 incur would include premium lounges at certain airports; is

1 that fair?

2 A. Yeah. We view that as an additional overhead expense,
3 yes.

4 Q. And Spirit does not maintain lounges for premium
5 passengers at any airports; is that correct?

6 A. We do not, no.

7 Q. And similarly, having to cater or maintain a first
8 class cabin, that could be another overhead cost; is that
9 right?

10 A. There is overhead associated with that and a first
11 incremental variable expense as well.

12 Q. So let's move on and talk about unbundled fares for a
13 bit. Could you please briefly explain to the Court how
14 unbundled fares contributes to keeping costs down?

15 A. Well, our structure, our product structure is that we
16 offer an a la carte product, which means our guests can pick
17 and choose elements of their transportation that are
18 important to them. That is a component of the product
19 offering we have, but we also believe that it does drive
20 some behavior with our guests that can contribute to
21 low-cost behavior. For example, we do have separate charges
22 for bags, be they carry-on bags or assigned bags -- or,
23 excuse me, checked bags. For that reason, our guests, on
24 average, carry fewer bags than on other airlines. Which
25 means we have less infrastructure to manage the bags, we

1 have less weight on board the airplane when it's flying
2 because we have fewer bags. That's one way that it can
3 contribute.

4 Q. And the a la carte structure also gives customers
5 choice about which of those offerings they value as opposed
6 to which ones they don't want to pay for; is that fair?

7 A. We believe so, yes.

8 Q. Spirit introduced the unbundled fair concept to the
9 United States; is that right?

10 A. We like to think so, yes.

11 MR. TEITELBAUM: If we could go forward in this
12 same slide deck to the Bates number ending in 963, please.

13 A. Did you say 3?

14 Q. Yes, ending in 963. And we'll have it on the screen
15 for you too, if you prefer that.

16 So this is a schematic of the different ancillary
17 product offerings that Spirit has on board its planes; is
18 that right?

19 A. Yes.

20 Q. And on the right-hand side we see the different things
21 that a passenger could choose to pay for?

22 A. These are some of them, yes.

23 Q. And by the same token, a passenger could choose to not
24 pay for any of these things; right?

25 A. That's correct.

1 Q. And, in fact, some Spirit passengers do, in fact, just
2 choose the base fare on Spirit; right?

3 A. Yes.

4 Q. Now, I'd like to just talk about some other airlines
5 and their partially unbundled or unbundled offerings as well
6 as some legacy carriers. So let's talk about basic economy
7 on a legacy carrier like Delta, for instance. To your
8 knowledge, basic economy passenger on Delta is still going
9 to receive snacks and drinks to some degree on that service;
10 right?

11 A. I think so, but I'm not a hundred percent certain.

12 Q. And when that service is included in the base price of
13 a ticket, that means that it's baked into the price that the
14 passenger has to pay; right?

15 A. Yeah. It's all part of that, that price. I guess it's
16 bundled into that price.

17 Q. And similarly, when JetBlue offers Wi-Fi to all of its
18 passengers as part of the ticket price, passengers pay for
19 that in their ticket price no matter what; right?

20 A. Well, yes. I mean, to be clear, they don't have an
21 option not to have Wi-Fi. In JetBlue's case it's offered
22 complimentary across the cabin, although fares themselves
23 can be competitive, but yes.

24 Q. In other words, a JetBlue passenger doesn't have an
25 option to pay \$8 less and not get Wi-Fi?

1 A. That's my understanding, yes.

2 MR. TEITELBAUM: If we could go back to slide 18
3 in this presentation.

4 Q. There's a bullet on the slide we were looking at,
5 Mr. Christie, about operating a uniform A320 family fleet.
6 Could you please briefly explain to the Court how that
7 contributes to keeping costs down?

8 A. In Spirit's case we operate, it says here, we operate
9 in all Airbus A320 family fleet. We operate all the
10 variants of the Airbus A320 family, which include the
11 smallest which is the A319, the midsize which is the 320,
12 and the largest airplane which is the 321.

13 The benefit to operating a uniform fleet from a cost
14 perspective is twofold. One is that it is the same exact
15 training and cockpit for your flight crews, both for your
16 inflight crews and your pilots. And secondarily, they are
17 maintained roughly the same. They have a similar amount of
18 spare parts that are in common and allow you to keep your
19 costs lower because you operate that uniform fleet.

20 Q. And similarly, could you explain to the Court how the
21 flying young, fuel-efficient aircraft, in the bottom right
22 there, contributes to keeping costs down?

23 A. So in this case we're referring principally to the
24 variable operating expense of the aircraft. And I'll
25 clarify that in a second. But when you fly newer aircraft,

1 they tend to be more fuel-efficient than older aircraft,
2 which is good for variable operating expenses. Also younger
3 aircraft tend to be more reliable, meaning they spend less
4 time in maintenance, which means they're up and operating
5 more frequently. The offset to that, of course, is newer
6 aircraft are more expensive to buy. So you have a higher
7 fixed cost.

8 MR. TEITELBAUM: If we could take a look at the
9 Bates number ending in 964. That's page 21 of this slide
10 deck.

11 Q. This is a diagram reflecting various features of
12 Spirit's young uniform Airbus fleet; is that right,
13 Mr. Christie?

14 A. Yes.

15 Q. And the graph in the lower right-hand corner reflects
16 the average fleet age of the different airlines operating in
17 the United States? We can blow that up for you.

18 A. Yes.

19 Q. And as of November 2022, from this slide deck, this
20 reflects that Spirit had the second youngest fleet of the
21 airlines listed here; is that right?

22 A. Correct.

23 MR. TEITELBAUM: All right. Now, if we could
24 please go to slide 19, which is the Bates number ending in
25 962.

1 Q. All right. So this slide is entitled, "Focused on the
2 VFR and leisure customer." Can you please tell the Court
3 what "VFR" stands for in the airline industry?

4 A. That's an acronym for "visiting friends and relatives."

5 Q. And leisure customers, pretty much what it sounds like,
6 people not traveling for business?

7 A. Correct.

8 Q. Fair to say that Spirit's product is not in any way
9 restricted to just people flying for visiting friends and
10 relatives and leisure; you accept business travelers as
11 well?

12 A. We do accept business travelers, yes.

13 Q. And really Spirit's product is for anyone who's looking
14 for what Spirit's value proposition is; right?

15 A. That's correct. We offer a product intended to attract
16 a number of people based on the fare we charge and the
17 routes we serve and the products we offer.

18 Q. And when this slide reflects, in the top left bubble,
19 "Ultra low fares (and total prices including all
20 ancillaries)," "ancillaries" is a reference to the
21 additional add-on products that a customer can buy?

22 A. That's correct.

23 Q. And so "including all ancillaries" is a reflection that
24 Spirit is still offering a low fare even taking into account
25 the extras that someone might buy; right?

1 A. That's correct. Of course, this is taken on average
2 across our entire system. But, yes, when compared to other
3 averages at other airlines, this is correct.

4 Q. All right. And then in the top right, there's a
5 reference to, "To and from top destinations and major
6 airports." Would you agree that Spirit maintains a strong
7 position among ULLCs in large metropolitan areas?

8 A. We have worked to establish that, yes.

9 Q. And Spirit manages to operate successfully out of
10 primary airports in cities; is that fair?

11 A. In most of them, yes.

12 Q. And a primary airport would be something like LaGuardia
13 or Newark in the New York City metropolitan area; right?

14 A. Yeah. I would refer -- yes. I would refer to them
15 that way.

16 Q. And that would be contrasted with Islip Airport, for
17 instance, in Long Island?

18 A. In that good example, correct.

19 Q. You've actually observed, in your time at Spirit, that
20 other ultra low-cost carriers have not had as much success
21 maintaining a presence in those primary airports; is that
22 right?

23 A. I have. I have thought of -- I can think of a few
24 examples where we've seen some ultra low-cost carriers enter
25 markets like those and leave, yes.

1 Q. For instance, Frontier, you've observed, has had
2 difficulty maintaining a presence at the primary New York
3 metropolitan area airports; right?

4 A. Well, in this case we may be referring to Newark
5 Airport. I think their presence in LaGuardia has been
6 consistent as long as I can think of. So they've been
7 maintaining that presence there. But you may be referring
8 to Newark Airport.

9 Q. And, in fact, in recently, you observed that Frontier
10 had to retreat back to Islip Airport instead of maintaining
11 that presence in Newark; right?

12 A. I don't remember exactly when it was, but I know
13 Frontier did cut their service from Newark Airport.

14 MR. TEITELBAUM: So I'd ask the witness be shown
15 what's been marked for identification as Exhibit ZW.

16 Q. And, Mr. Christie, that will also be in your binder
17 marked as ZW, if you'd like to look at it.

18 MR. TEITELBAUM: And if we could please bring this
19 up on the screen for the witness but, of course, not publish
20 it.

21 Q. And it's up to you, Mr. Christie, but we do have the
22 exhibit for you up on the screen if you'd like to look at
23 that.

24 A. I'm becoming more farsighted, so I'm trying to decide
25 which one to --

1 THE COURT: Do I have it?

2 MR. TEITELBAUM: Yes, your Honor. And I'll just
3 confirm that it's not labeled accurately here. Just one
4 second. If I could have just one moment, your Honor, this
5 may be an exhibit about which there was recent discussion to
6 assign it a number.

7 MR. COHEN: Your Honor, if I could be helpful, I
8 have no objection to the admission of this exhibit.

9 THE COURT: Very well. ZW, wherever it is, will
10 have the next number, which is what?

11 MR. TEITELBAUM: That will be Exhibit 348, your
12 Honor.

13 THE COURT: ZW is 348 in evidence. And if anyone
14 could give it to me, I'd appreciate it.

15 (Exhibit 348 received in evidence.)

16 MR. TEITELBAUM: I will just ask my colleagues if
17 they can retrieve a copy of Exhibit ZW, now 348, for the
18 Court.

19 THE COURT: Yes, but you can go ahead.

20 MR. TEITELBAUM: Thank you, your Honor.

21 If we could please magnify the top half of this
22 exhibit.

23 Is it all right for us to approach the bench to
24 provide the exhibit?

25 THE COURT: Of course.

1 MR. TEITELBAUM: Thank you, your Honor.

2 (Handing.)

3 MR. TEITELBAUM: And actually, before we magnify
4 that portion of the text, let's just magnify the from, to,
5 and the subject.

6 Q. So the top e-mail here, Mr. Christie, is from Mr. Mac
7 Gardner to yourself; is that right?

8 A. Yes.

9 Q. And Mr. Gardner is a, also, the chairman of Spirit's
10 board of directors?

11 A. He is the chairman, yes.

12 Q. The subject line is, "Re: Frontier is launching
13 eighteen new routes to Florida and beyond with a special
14 focus on rival Spirit's home airport of Fort Lauderdale.
15 See the full list." Right?

16 A. Yes.

17 Q. And then if we can take that magnification away, and
18 there's an e-mail from you dated November 30th, 2021, at
19 7:50 p.m. And if you could please read this portion of the
20 e-mail that you wrote, sir?

21 A. "Well, the message that we're receiving (if they're
22 trying to send one) is that they can't make big city East
23 Coast strongholds like Newark and Miami work for them, so
24 instead they are retreating back to Islip, Stewart and Fort
25 Lauderdale. Their FLL announcement, by the way, largely

1 does not overlap with us (with the exception of Atlanta and
2 Philly), so not sure that is an aggressive message either."

3 Q. So this would be an example of you having observed
4 Frontier retreating from a primary airport and going back to
5 a secondary or tertiary airport; is that fair?

6 A. Yes.

7 MR. TEITELBAUM: All right. We can take that
8 exhibit down.

9 Q. So we've talked a little bit about Spirit's value
10 proposition. And you've also testified about this before
11 the House Infrastructure Committee; is that right?

12 A. I believe so, yes.

13 Q. In 2019. Does that sound right?

14 A. That sounds right.

15 Q. And the overarching purpose of that testimony was
16 the -- it related to a passenger facility charge at
17 airports; right?

18 A. Correct.

19 Q. And that testimony was truthful and under oath?

20 A. Yes.

21 Q. And this is Exhibit 121, if we could please play that
22 in open court.

23 (Video playing.)

24 Q. So understanding that the size of Spirit has changed
25 substantially since 2019; is that fair?

1 A. We are larger than we were, yes.

2 Q. But regarding some other aspects of your testimony, you
3 mentioned during your testimony that Spirit's fares are on
4 average 30 percent lower than other airlines in the United
5 States; do you recall that portion?

6 A. Yes.

7 Q. And that's an example of Spirit's competitive advantage
8 versus other airlines in the United States; is that right?

9 A. I think that shows our product offering, that our
10 average fares are, again, on average lower.

11 Q. And, once again, your reference there to including all
12 ancillary charges reflects that the total fare is actually
13 lower by 30 percent on average; right?

14 A. Yes.

15 Q. It's not a situation where once you account for a
16 checked bag or an advanced seat assignment that suddenly
17 that advantage goes away?

18 A. That's correct. Again, dealing with averages, because
19 it can move consistently across the spectrum.

20 Q. And you referenced during your testimony also Spirit's
21 focus on a customer base that's price-sensitive who pay for
22 their own tickets. Fair to say that's still true today?

23 A. We believe so.

24 Q. And the reference to paying for their own tickets, that
25 it is a contrast with business travelers who are often

1 traveling at their employer's expense; right?

2 A. That tends to be the distinction, yes.

3 Q. And similarly, a price-sensitive passenger may not have
4 the extra cash on hand to pay for a premium economy ticket
5 on another airline?

6 MR. SHORES: Objection, your Honor.

7 THE COURT: Yes, sustained to the question. I
8 didn't understand it, for one thing.

9 MR. TEITELBAUM: Understood, your Honor. I'll
10 move on.

11 THE COURT: All right.

12 MR. TEITELBAUM: Now, if we could please skip
13 forward in the video a little bit that we've been playing
14 and start playing at 154, for the record.

15 (Video playing.)

16 Q. Just a couple questions about that portion of your
17 testimony. For a tiny bit of background, the passenger
18 facility charge is a fee that gets added to tickets, airline
19 tickets?

20 A. Yes.

21 Q. And it's charged by airports, essentially?

22 A. Yes.

23 Q. And so you were referencing even a \$64 increase in the
24 total cost of a vacation would have a meaningful impact on
25 some Spirit passengers; is that right?

1 A. It could have an impact on their decisions, yes.

2 Q. And you reference if travel prices rise, they will
3 travel less. That's just a recognition that an increase in
4 price can contribute to people just not taking trips; right?

5 A. It may, yes.

6 MR. TEITELBAUM: All right. We can take that
7 exhibit down. Thank you.

8 A. Startlingly older now.

9 Q. All right. So now I'd like to talk to you a little bit
10 about the practical impact of Spirit's business model and
11 its low cost structure. Ultimately, you'd agree with me
12 that Spirit's responsibility as a for-profit corporation is
13 to turn a profit; is that fair?

14 A. It's one of them, yes.

15 Q. And in broad strokes, profit occurs when revenue
16 exceeds costs; right?

17 A. Yes.

18 Q. And so lower operating costs gives Spirit the
19 flexibility to operate profitably at lower fare levels;
20 right?

21 A. That is our belief, yes.

22 Q. And are you familiar with something called the "Spirit
23 Effect"?

24 A. Yes.

25 Q. Could you please briefly explain to the Court what the

1 Spirit Effect is?

2 A. We describe the Spirit Effect insofar as it's basic
3 economics. We're in a supply-demand environment, which
4 means that there is demand for product, and there is a
5 corresponding supply of that product, and the clearing price
6 of that product shows you where those two curves intersect.
7 And the Spirit Effect basically says if you can lower fares,
8 you're stimulating additional demand into the marketplace.
9 So more people travel more frequently with lower fares.

10 Q. So, in other words, there's a component of the Spirit
11 Effect that is driving fares down on a route; is that right?

12 A. To be clear, it's trying to come into a market with
13 lower fares than existed prior to our existence. However,
14 we are actively managing the revenue on our aircraft so that
15 we can charge the highest amount we can to achieve our
16 target margins, yes.

17 Q. Understood. And yet at the same time, Spirit's value
18 proposition is to charge low fares and attract business that
19 way; right?

20 A. That is our entry point. We come into a market with
21 lower fares in an attempt to stimulate more activity, yes.

22 Q. You reference the demand stimulation. That's bringing
23 more travelers on to a route total; right?

24 A. That is our goal. It's either more travelers or more
25 frequent travelers.

1 Q. That's just -- that's not just attracting customers to
2 fly Spirit; right?

3 A. Can you --

4 Q. Sure. It's attracting customers to fly Spirit, but
5 also increasing the total size of the passenger activity on
6 a particular route; right?

7 A. That is -- we believe that's the way it works, is the
8 stimulation increases the size of the total buy.

9 MR. TEITELBAUM: All right. I'd ask that the
10 witness be shown Exhibit 298, but I'm not asking for it to
11 be published at this moment just to get to the right page
12 before we do that.

13 Q. So if you want to look at the first page that's on your
14 screen there, Mr. Christie, that's some e-mail
15 correspondence about some board of director slides from
16 2021; right?

17 A. Yes.

18 Q. And if we could go -- and fair to say that as the CEO
19 you're involved in presentations to the board of directors?

20 A. I am.

21 Q. And you review them for accuracy?

22 A. I do.

23 MR. TEITELBAUM: If we could please go to page 26
24 of the exhibit altogether, and then publish that.

25 MR. COHEN: Bates number, please?

1 MR. TEITELBAUM: It does not have a Bates number
2 because it is the color version of that exhibit.

3 MR. COHEN: Thank you.

4 MR. TEITELBAUM: And if we could please publish
5 that.

6 THE CLERK: You want it published?

7 MR. TEITELBAUM: Yes, please.

8 (On screen.)

9 Q. All right. Mr. Christie, what you see here is a
10 diagram of the Spirit Effect in action, essentially; right?

11 A. Yes.

12 Q. And is there -- there's someone at Spirit in your chain
13 of command that reports to you who's responsible for
14 calculating and monitoring the Spirit Effect; is that right?

15 A. I don't think we have a regular monitor of the Spirit
16 Effect, but I know that in the planning department they
17 have, at times, prepared presentation slides like this for
18 us, yes.

19 Q. And it's the individuals that report to John Kirby who
20 are responsible for that; right?

21 THE COURT: I'm lost. You're on exhibit number?

22 MR. TEITELBAUM: We are on Exhibit Number 298,
23 your Honor.

24 THE COURT: And the page number?

25 MR. TEITELBAUM: It is very nearly the last page.

1 The color version was produced to us without Bates numbers,
2 but I could point you to it from the back --

3 THE COURT: I have it. I have it.

4 MR. TEITELBAUM: Thank you.

5 THE COURT: Proceed.

6 Q. And I just want to talk to you very briefly about the
7 three examples that are on this chart. So on the far left
8 we've got a discussion of the Newark to Fort Lauderdale
9 route; is that right?

10 A. Yes.

11 MR. TEITELBAUM: And if we could please magnify
12 that portion of the exhibit.

13 Q. All right. And what this is reflecting here, we're
14 talking about a comparison of the twelve months before
15 Spirit entered this route and the twelve months after; is
16 that right?

17 A. I believe that's what the footnote says, although
18 it's -- yes.

19 Q. Okay. And so what this graph is showing is that
20 comparing those two time periods, Spirit's entry was
21 connected with an 88 percent increase in overall passenger
22 traffic?

23 A. Yes.

24 Q. And a 33 percent reduction in fares; is that right?

25 A. In the average fare, which includes our fare.

1 Q. Understood.

2 MR. TEITELBAUM: And then if we could move to the
3 middle exhibit and magnify that. And, I'm sorry, if we
4 could include the name of the route there.

5 Q. So this is Newark to Myrtle Beach, South Carolina.
6 Just a quick question separate from the data that's here.
7 In your position as the CEO, and within Spirit Airlines, a
8 route is sometimes referred to as a market; is that right?

9 A. It can, yes.

10 Q. And so a market is a synonymous term for an origin and
11 destination pair?

12 A. We have referred to it that way, yes.

13 Q. So here we're looking at the Newark to Myrtle Beach
14 route, once again comparing before Spirit entered to after
15 Spirit entered; right?

16 A. Yes.

17 Q. And here what's reflected is a 398 percent increase in
18 overall passenger traffic; right?

19 A. Yes.

20 Q. And a 60 percent average decrease in fares; right?

21 A. Yes, including our fare. Yes.

22 MR. TEITELBAUM: And then if we could move to the
23 far right portion of the diagram.

24 Q. And so here, looking at the average of all Spirit
25 markets systemwide, this reflects a 30 percent overall

1 increase in passenger demand upon Spirit entry; right?

2 A. I think for the same time period measured, I'm
3 guessing, yes.

4 THE COURT: Well, you're guessing. That's what
5 you're --

6 THE WITNESS: Again, I assume it is for the same
7 time period.

8 Q. And to avoid any assumptions or guessing, do you want
9 to take a quick look at the footnote again just to confirm
10 the sourcing of that data?

11 A. If you don't mind.

12 MR. TEITELBAUM: If we could take that
13 magnification down, please, and just bring that footnote up.

14 Q. And that reflects the full twelve months before and
15 after Spirit enters a market; right?

16 A. Good clarity. Yes.

17 Q. Okay. All right. And so a 22 percent, on average,
18 reduction in fares, including Spirit's?

19 A. Correct.

20 MR. TEITELBAUM: All right. We can take that
21 exhibit down.

22 Q. So we've discussed a lot about dollars and cents in
23 Spirit's business model. But we've also talked a little bit
24 about how Spirit produces satisfied customers too; right?
25 It's not just about dollars and cents?

1 A. I think you mentioned some of the awards we won,
2 perhaps, yes.

3 Q. And Spirit also attracts repeat customers on its
4 routes?

5 A. We believe so, yes.

6 Q. It's not as if Spirit's entire customer base is people
7 flying Spirit for the first time and then never again?

8 A. No.

9 Q. So I'd like to talk briefly about repeat customers and
10 some of Spirit's internal data.

11 MR. TEITELBAUM: If we could, please, show the
12 witness the first page of Exhibit 304.

13 (On screen.)

14 Q. And this is a slide presentation that's entitled,
15 "Profiling by trip type," on the very first page of that
16 slide deck; is that right, Mr. Christie?

17 A. I see that, yes.

18 Q. And fair to say that one of the things that Spirit does
19 in the operation of its business is to monitor customer
20 satisfaction?

21 A. Yes.

22 Q. And keep track of how the brand is being perceived?

23 A. We do survey our guests, yes.

24 MR. TEITELBAUM: And so if we could please go to
25 page 27 of the exhibit and also publish this to the gallery.

1 (On screen.)

2 Q. We've got it on the screen for you, or if you'd like to
3 go there on hard copy, this would be the little number 11 in
4 the lower right on the hard copy.

5 A. I'll find you on the screen here.

6 Q. Okay. So what this graph -- first of all, the slide is
7 labeled, "Business guests repeat more frequently than
8 leisure guests." Right?

9 A. That's what the slide says, yes.

10 Q. So there's some data here that's keeping track of the
11 different purposes of travel for some different customers
12 and different trip types for Spirit; right?

13 MR. COHEN: Objection, your Honor. Foundation.

14 THE COURT: No, we'll see what the witness
15 answers. The witness is capable of answering this question,
16 I assume.

17 Can you answer it?

18 THE WITNESS: Can you reask the question?

19 THE COURT: Yes.

20 Q. This slide is showing some data about the trip types
21 for Spirit's repeat customers; right?

22 A. I'm reading it. I don't recall this presentation.

23 Q. Understood. But you can see from that --

24 A. Yes.

25 MR. TEITELBAUM: And if we could just briefly

1 magnify the data sources at the bottom of this slide deck.

2 Q. This reflects that this slide deck comes from
3 post-flight survey and revenue data from June 5th, 2019 to
4 December 31st, 2019; right?

5 A. I see that, yes.

6 MR. TEITELBAUM: Okay. We can take that
7 magnification down.

8 Q. What this reflects is that for the time period in this
9 slide, 30.7 percent of business travelers were actually
10 repeat customers within the past six months; right?

11 A. I believe that's the indication of the slide, yes.

12 Q. Do you have any reason to doubt that this slide deck is
13 accurate?

14 A. None that I can think of, no.

15 MR. TEITELBAUM: And then if we could look at and
16 actually magnify the leisure column.

17 Q. This reflects that 21 percent, 21.7 percent of leisure
18 customers during that time period were repeats within the
19 past six months; right?

20 A. Yes.

21 Q. And then there's also an additional 10.3 percent that
22 were within the past twelve months?

23 A. Yes.

24 MR. TEITELBAUM: Okay. We can take that exhibit
25 down. Thank you.

1 Q. I have some general questions for you, Mr. Christie,
2 about the strategy and planning documents that Spirit uses
3 when it operates its business. Are you familiar with
4 something called a five-year network plan?

5 A. Yes.

6 Q. And fair to say that that's something that the network
7 planning team prepares on an annual basis?

8 A. They do prepare one usually. It's not consistently --
9 usually for at least one review with our board annually, and
10 then we're constantly iterating that plan throughout the
11 course of the year.

12 Q. And, once again, that's John Kirby, the vice president
13 of network planning who is responsible for that?

14 A. Yes.

15 Q. And that network plan, it lays out high-level
16 objectives for Spirit's route network in the coming years;
17 is that a fair description?

18 A. I think it's fair to say it's a plan. So it's our best
19 estimate of what we're looking at for the future five years,
20 yes.

21 Q. And understanding that it's necessarily predictive,
22 it's intended to be realistic; right?

23 A. It's based on the information we have as of that
24 moment, yes.

25 Q. And then you're also familiar with something called a

1 five-year financial plan?

2 A. I am.

3 Q. And that's something else that Spirit creates on an
4 annual basis?

5 A. Again, similarly, we do have a -- usually have an
6 update to that for our board annually, but it is a fluid
7 document that moves throughout the year.

8 Q. And this is essentially an economic forecast reflecting
9 Spirit's prospects over the coming five years; is that
10 right?

11 A. That's right.

12 Q. And, ultimately, it's Scott Haralson, the chief
13 financial officer, who's responsible for preparing the
14 five-year financial plan?

15 A. Scott and the financial planning and analysis team,
16 that's correct.

17 Q. And I just have a few questions about what the inputs
18 are for the five-year financial plan. The airline's
19 capacity is one of those inputs; is that fair?

20 A. Yes.

21 Q. And the cost structure of the airline as anticipated in
22 the coming years?

23 A. As known and as anticipated, correct.

24 Q. And anticipated fares and yields in the markets that
25 Spirit serves?

1 A. Again, we make an estimate, but yes.

2 Q. And, once again, understanding that it's predictive in
3 nature, it's nonetheless something that you put together
4 based on current market realities; is that fair?

5 A. Yes.

6 Q. And you use it to help drive business decisions going
7 forward?

8 A. That's correct.

9 Q. Spirit has grown substantially in the past five years;
10 is that fair?

11 A. We believe so, yes.

12 Q. And, in fact, it's grown faster than legacy carriers?

13 A. I think if you look at percentages that would be true,
14 yes.

15 Q. And the same could be said for other ultra low-cost
16 carriers?

17 A. Not sure about the more recent past, but it's going to
18 be close either way, yes.

19 Q. And same with low-cost carriers; right?

20 A. I believe so.

21 THE COURT: Well, the same, low-cost -- ultra
22 low-cost carriers are growing faster than low-cost carriers,
23 or low-cost carriers are growing faster than legacy? I
24 didn't get the comparison.

25 THE WITNESS: I don't have all the data right at

1 my -- but my -- but my experience would tell me that the
2 ultra low-cost segment is growing, on percentage terms,
3 faster than the low-cost segment. And the low-cost segment
4 is growing, on percentage terms, faster than the legacy
5 segment.

6 Q. And specifically with respect to Spirit, Spirit is
7 growing faster on a percentage basis than low-cost carriers?

8 A. I believe so, yes.

9 Q. And Spirit has grown faster than other ultra low-cost
10 carriers on a percentage basis over the past five years?

11 A. We have been among the fastest growing. I'm hesitating
12 because more recently we're not. So I don't know how much
13 that influences the number.

14 Q. Well, let's just talk briefly. As of June 2023, June
15 of this year, Spirit was planning on a compound annual
16 growth rate of 13 to 17 percent; is that right?

17 A. For our forward five-year plan?

18 Q. Yes.

19 A. It's possible that that was the number provided, yes.

20 Q. And as of 2021, that 13 to 17 percent compound annual
21 growth rate also seemed realistic to Spirit, right, going
22 forward?

23 A. I believe so. Although the numbers are a bit jumbled
24 during the course of the pandemic because there was
25 significant reduction in size over the course of the year

1 2020 and 2021, and that does influence the percentages,
2 but...

3 Q. And would you agree that it still, as of June 2023, it
4 was Spirit's objective to achieve a 13 to 17 percent
5 compound annual growth rate going forward?

6 A. That was our plan for the five-year network plan. Of
7 course, that has changed significantly over the past four or
8 five months.

9 Q. All right. And we can talk about that in a little bit.
10 But you would agree with me that as of June 2023 that was
11 the plan?

12 A. I think that was our target growth rate.

13 Q. And fair to say that Spirit plans to increase the size
14 of its route network over the next five years?

15 A. Yes.

16 Q. And Spirit plans to continue adding international
17 service in the coming years as well; right?

18 A. We think so, yes.

19 Q. All right. So now let's circle back to the proposed
20 transaction that's on the table here.

21 MR. TEITELBAUM: And if you could just give me one
22 moment, your Honor.

23 THE COURT: Of course.

24 (Whereupon counsel conferred.)

25 Q. So stepping back to February of 2022, Mr. Christie,

1 fair to say that the plan as of that time was that Frontier
2 Airlines was going to acquire Spirit Airlines; right?

3 A. Yes.

4 Q. And there was actually -- there was a signed merger
5 agreement to that effect that was in place as of the earlier
6 part of February 2022?

7 A. That's correct.

8 Q. And the transaction with Frontier, that was primarily a
9 stock transaction as opposed to cash; right?

10 A. Largely a, what they referred to as an equity swap
11 transaction. Correct.

12 Q. So most of what Spirit's shareholders were going to get
13 in that transaction was going to be Frontier stock as
14 opposed to cash?

15 A. Most of it. That's correct.

16 Q. But there was some -- still some cash involved; right?

17 A. Also correct.

18 Q. And you supported the transaction with Frontier as of
19 February of 2022; is that right?

20 A. I did.

21 Q. And the rest of Spirit's board of directors also
22 supported it?

23 A. We did.

24 Q. And it was about a month and a half after that merger
25 agreement with Frontier was signed that you first got an

1 offer from JetBlue to acquire Spirit; is that right?

2 A. Yes.

3 Q. It was in March of 2022?

4 A. Very late March, yes.

5 Q. And it was an offer, cash, of \$33 a share; is that
6 right?

7 A. Yes.

8 Q. And at that time Spirit engaged Barclays and Morgan
9 Stanley as financial advisers to evaluate this proposal;
10 right?

11 A. They were already engaged as our financial advisors,
12 but I believe we did meet with them to discuss that
13 proposal.

14 Q. You directed them to invest time in analyzing this
15 proposal; is that fair?

16 A. Yes.

17 Q. And Spirit Airlines itself also invested time in
18 analyzing whether or not the transaction with JetBlue would
19 be reasonably consummated; is that fair?

20 A. That is the threshold that was specifically referenced
21 in our merger agreement with Frontier. So we did invest
22 some time understanding the regulatory review process and
23 JetBlue's strategy for that, yes.

24 Q. And while Spirit was evaluating this offer from
25 JetBlue, JetBlue actually sent Spirit a revised offer at the

1 end of April 2022; right?

2 A. Yes. So we received our initial offer in March of
3 2022. March, end of March, the board met and determined
4 that it was reasonably likely that it could lead to a
5 superior proposal. We began our discussions with JetBlue,
6 and I believe they modified that proposal at the end of the
7 month.

8 Q. And you use the term "superior proposal." That's
9 because that was some triggering terminology for whether or
10 not Spirit could abandon the Frontier deal in favor of
11 something else; right?

12 A. That's correct.

13 Q. And the revised offer from JetBlue that came in at the
14 end of April of 2022, that included a reverse breakup fee of
15 \$200 million; does that sound right?

16 A. I believe so, yes.

17 Q. The reverse breakup fee was essentially an amount of
18 money that JetBlue would pay to Spirit or its shareholders
19 if the merger ultimately did not go through; is that fair?

20 A. Yes.

21 THE COURT: I -- would pay if what merger didn't
22 go through, the Frontier merger?

23 THE WITNESS: No. As a condition of the JetBlue,
24 of their proposal, JetBlue's proposal to purchase Spirit,
25 they offered a reverse termination fee, that if we accepted

1 their proposal, and that that transaction was never
2 consummated because of regulatory review, then they would
3 pay the reverse termination fee.

4 THE COURT: And nevertheless, you get -- Spirit
5 would get \$220 million?

6 THE WITNESS: That was the proposal at that time,
7 yes.

8 Q. So, for instance, just to make this a bit clearer, if,
9 based on the proposal at that time that we're discussing
10 right now, if that merger were then enjoined or blocked,
11 then while there would be no merger with JetBlue, Spirit
12 shareholders would at least be walking away with a
13 \$200 million payment from JetBlue essentially as a
14 consolation prize; right?

15 A. Yes.

16 Q. And so the Spirit board also rejected this revised
17 offer; right?

18 A. We did.

19 Q. And starting in early May of 2022 there were actually a
20 series of public statements that Spirit's management made
21 with respect to its views of JetBlue's offer; is that fair?

22 A. I'm sure that's true, yes.

23 Q. And, for instance, on May 2nd of 2022, Spirit issued a
24 press release that attached a letter from you and
25 Mr. Gardner, the chairman of the board of Spirit, addressed

1 to Robin Hayes, the CEO of JetBlue; is that right?

2 A. That sounds right.

3 MR. TEITELBAUM: And I would just ask that the
4 witness be shown what was previously numbered as Exhibit 38
5 that the defendants have withdrawn.

6 (On screen.)

7 Q. And, Mr. Christie, you also have that in your binder
8 there, but feel free to take a look at it either on the
9 screen or it should be in the exhibit binder labeled with a
10 38.

11 A. 38?

12 Q. Yes.

13 A. Oh, it's in the front. Thank you.

14 Q. Do you recognize that document as the press release
15 that Spirit issued on May 2nd of 2022?

16 A. Yes.

17 Q. And do you see that in the subsequent pages it attached
18 a letter that has your S-slash signature?

19 A. Yes.

20 Q. And that appears to be a fair and accurate copy of that
21 press release with its associated letter; right?

22 A. I'm sure it is.

23 MR. TEITELBAUM: At this time, your Honor,
24 plaintiffs would offer exhibit previously numbered 38 into
25 evidence.

1 MR. COHEN: Objection, your Honor.

2 THE COURT: Ground?

3 MR. COHEN: This is the first of the documents
4 that are on the subject matter --

5 THE COURT: I understand. And I'm taking it that
6 they have to lay a foundation for this. So he thinks he has
7 and he offers it. Why shouldn't it be admitted?

8 MR. COHEN: Because it's being offered to discuss
9 the opinions of Spirit with respect to regulatory matters,
10 which we have --

11 THE COURT: So it does. And so what's the matter
12 with that?

13 MR. COHEN: It violates 701 and 704.

14 THE COURT: Oh, I think not. Overruled. It may
15 be admitted, Exhibit 38 in evidence. Your rights are saved.
16 It's in evidence.

17 (Exhibit 38 received in evidence.)

18 MR. TEITELBAUM: Thank you, your Honor. If we
19 could please publish the second page of the letter. This is
20 the Bates number ending in 119. And if we could please
21 magnify the paragraph that begins with the word "moreover."

22 (On screen.)

23 Q. And so, Mr. Christie, this is a letter from you and the
24 chairman of the board of Spirit to the CEO of JetBlue;
25 right?

1 A. Correct.

2 Q. And it lays out your concerns as of that time about a
3 combination of JetBlue and Spirit; right?

4 A. I think that's the right way to say it as of this date,
5 yes.

6 Q. And so I have a couple of questions for you about this
7 paragraph. I'm going to not ask you to read the whole
8 thing, for the sake of time, but first of all, you see in
9 the second line there the reference to a
10 "higher-cost/higher-fare airline would be eliminating a
11 lower-cost/lower-fare airline"?

12 A. I see that.

13 Q. So one of the concerns that Spirit had about a
14 combination with JetBlue is that both the Department of
15 Justice and a court would be concerned that JetBlue -- let
16 me break this question up a little bit.

17 The reference to a higher-cost/higher-fare airline in
18 this sentence, that's to JetBlue; right?

19 A. Relative to Spirit, yes.

20 Q. Because it has a higher operating cost structure?

21 A. Than Spirit, correct.

22 Q. And it has a higher average fare; correct?

23 A. Average fare, that's correct.

24 Q. And so one of the things that Spirit's management was
25 concerned about is that JetBlue's acquisition of Spirit

1 would eliminate that lower-cost/lower-fare airline, meaning
2 Spirit; right?

3 A. We were concerned that this would be raised by
4 regulators and so wanted to point it out.

5 Q. And then the next part of that sentence, "in a
6 combination that would remove about half of the ULCC
7 capacity in the United States," that's just a reference to
8 the percentage of Spirit's position in the market as a large
9 ULCC?

10 A. That's right. I think we're referencing we were about
11 half of the ULCC carriers in the market. Of course our
12 capacity wouldn't be removed, but the brand itself would be
13 changed.

14 Q. In connection with the changing of the brand, that
15 capacity would no longer be operating as an ultra low-cost
16 carrier; right?

17 A. That was, again, one of the concerns that we had.

18 Q. Instead it was going to be operating as part of
19 JetBlue's business model?

20 A. That was our understanding, yes.

21 Q. And then the sentence starting with, "Finally."
22 "Finally, we are skeptical about your claims regarding the
23 so-called JetBlue Effect." So Spirit's management here was
24 stating its skepticism about the potency of the JetBlue
25 Effect here; is that right?

1 A. Based on the summary output that we received. We
2 really didn't have enough information, so we were skeptical,
3 yes.

4 Q. And the final sentence of that paragraph references,
5 "After receiving the summary output," as you said, "of your
6 economic model from your advisers, Spirit's economic
7 consultants identified reasons to doubt that such an effect
8 would significantly exceed any similar ULCC effect." Right?

9 A. Based on that time and at that review that was our
10 concern, yes.

11 Q. And that reference to Spirit's economic consultants
12 reflects that Spirit asked Morgan Stanley and Barclays to
13 analyze the information that was being received from
14 JetBlue; right?

15 A. Among others. We counseled with all of our advisers at
16 the time, and with the information that was provided, which
17 admittedly was incomplete, we were skeptical about it, yes.

18 Q. And the reference to the ULCC effect here, that's
19 another way of referring to the Spirit Effect; right?

20 A. I believe so, yes.

21 Q. And so there's a comparison being drawn here about
22 whether or not the JetBlue Effect would significantly exceed
23 any similar Spirit Effect in this sentence; right?

24 A. Again, our concern was that, and based on the
25 information we had, that that was -- that was not true. But

1 that has changed over time.

2 Q. All right. Well, we can talk about that in a little
3 bit.

4 Now, in the middle of May 2022 --

5 MR. TEITELBAUM: And we can take that exhibit
6 down. Thank you.

7 Q. In the middle of May 2022, JetBlue actually went
8 directly to Spirit's shareholders with an offer to buy
9 outstanding Spirit shares; is that right?

10 A. They did, yes.

11 Q. And that's sometimes referred to as a tender offer?

12 A. Correct.

13 Q. At the time that that occurred in the middle of May of
14 2022, Spirit's board continued to oppose a transaction with
15 JetBlue; right?

16 A. We did. The tender offer was actually modestly worse
17 than the prior offer, so we remained in objection based on
18 the proposal they made at that time.

19 Q. And, in fact, JetBlue came and offered \$30 a share
20 instead of \$33 a share; right?

21 A. Correct. I believe it had some vehicle in it that you
22 could perhaps go back to thirty-three. I don't recall
23 specifically but, yes, it was on the surface worse than the
24 prior proposal.

25 Q. And Spirit's management continued to communicate with

1 the public and its shareholders about its views of this
2 potential JetBlue transaction during May of 2022; is that
3 fair?

4 A. Yes, and specifically talking about our transaction
5 with Frontier at the time.

6 Q. As a basis for comparison, in other words?

7 A. And we were actively soliciting votes from our
8 shareholders to approve the Frontier transaction, yes.

9 Q. And so on May 19th of 2022, Spirit's management issued
10 yet another press release urging its shareholders to reject
11 JetBlue's offer; is that right?

12 A. It could be.

13 MR. TEITELBAUM: So I would just ask that the
14 witness be shown what was previously numbered as
15 Exhibit 105, but defendants have withdrawn.

16 (On screen.)

17 Q. And do you see that there, Mr. Christie, that it's --
18 that there's a date there of May 19th of 2022?

19 A. I see that, yes.

20 MR. COHEN: That's not in the book.

21 MR. TEITELBAUM: I think it's in the binder.

22 THE COURT: I don't have 105, apparently.

23 MR. COHEN: Neither do I.

24 MR. TEITELBAUM: We will find that for everyone
25 right now.

1 (Pause in proceedings.)

2 MR. TEITELBAUM: And for the moment, to avoid
3 spending the Court's time, we can circle back to the exhibit
4 formerly known as Exhibit 105 and cover some other subject
5 matter. And we'll make sure we get that to the Court and
6 defense as well.

7 Q. Mr. Christie, aside from press releases, Spirit's
8 management was also communicating with its shareholders
9 directly about its views about a transaction with JetBlue;
10 right.

11 A. Specifically, our views on our transaction with
12 Frontier, but also communicating the comparison with the
13 JetBlue tender offer, yes.

14 Q. And Spirit management, including yourself, gave a
15 series of presentations to Spirit shareholders and also
16 proxy advisers during May of 2022; is that right?

17 A. We did, yes.

18 Q. And, for instance, on May 5th of 2022, you participated
19 in a presentation in connection with an earnings call; does
20 that sound right?

21 A. That does sound correct. Our quarterly earnings call
22 was around that time, yes.

23 Q. You and other Spirit senior executives make your best
24 efforts to be truthful and accurate in your presentations to
25 Spirit's shareholders?

1 A. We do.

2 Q. And these presentations were also filed with the SEC;
3 is that right?

4 A. I believe so, yes.

5 MR. TEITELBAUM: And so I'd ask that the witness
6 be shown what's marked for identification as Exhibit VK.

7 (On screen.)

8 A. Did you say "Victor"?

9 THE COURT: Yes.

10 Q. Victor, kilo.

11 And, Mr. Christie, this is a May 5th, 2022 presentation
12 made in connection with Spirit's quarterly earnings call; is
13 that right?

14 A. Yes.

15 Q. And you presented these slides during that call; is
16 that right?

17 A. As I recall, I think we provided the slides as backup
18 to the discussion in the presentation. I don't know that we
19 actually went page by page through the presentation.

20 Q. But they accompanied your oral presentation to Spirit's
21 shareholders?

22 A. They were intended to be backup to that presentation,
23 yes.

24 Q. And this is a fair and accurate copy of that
25 presentation?

1 A. It appears to be, yes.

2 MR. TEITELBAUM: At this time, your Honor,
3 plaintiffs offer Exhibit VK into evidence as Exhibit 349.

4 MR. COHEN: Your honor, this is another exhibit
5 that's the subject of our motion in limine with respect
6 to --

7 THE COURT: But isn't this an admission? Doesn't
8 this state the position of Spirit, at least at that point in
9 time? And that's relevant. That would be my analysis.
10 What's the matter?

11 MR. COHEN: I don't dispute that it's an
12 admission, your Honor. But if it's admission, it's still
13 excludable under 701 and 704.

14 THE COURT: I think not. Overruled.

15 It may be admitted. VK, then, will be Exhibit --

16 MR. TEITELBAUM: 349, at least by plaintiff's
17 numbering, your Honor.

18 THE COURT: Very well. Exhibit VK is 349 in
19 evidence.

20 (Exhibit 349 received in evidence.)

21 MR. TEITELBAUM: And if we could please go to
22 slide 2 of this presentation.

23 (On screen.)

24 Q. And this slide is entitled, "JetBlue's illusory offer
25 is not superior." Is that right, Mr. Christie?

1 A. Yes.

2 MR. TEITELBAUM: And looking at the second bubble
3 from the top that starts "At its core," if we could please
4 magnify that.

5 Q. Would you please read what is written there in that
6 second bubble?

7 A. "As its core, the JetBlue proposal represents a
8 high-cost, high-fare airline buying a low-cost, low-fare
9 airline with half the synergies coming from reduced capacity
10 and increased fares."

11 MR. TEITELBAUM: We can remove that magnification.

12 Q. And that reference to "synergies," that's a term that's
13 used for the purported benefits of a merger; right?

14 A. It has been used that way, yes.

15 Q. And so it was the view of Spirit's management at the
16 time of this presentation that half of the purported
17 benefits of this merger with JetBlue were going to come from
18 reduced capacity and increased fares; right?

19 A. We had a concern. We did not do any analysis on
20 synergies, but we did see a presentation from JetBlue that
21 may have implied that. So that was a concern we were
22 raising, that this would, again, be something that could be
23 raised in the regulatory review process.

24 Q. Well, let's talk about that for a bit. So, first of
25 all, it was based on your concern from information that

1 JetBlue had given you about their plans; right?

2 A. I think it was a presentation that JetBlue gave
3 broadly. I don't think they gave it to us. I think it was
4 in support of their initial proposal. My memory on that is
5 not perfect.

6 Q. But nonetheless the sourcing was JetBlue?

7 A. Correct.

8 Q. And you mentioned in the second part of your answer
9 that this had to do with concern about how regulators would
10 view this transaction; right?

11 A. Exactly.

12 Q. And so I just want to talk about what's literally
13 written on this slide for a moment. The title, "JetBlue's
14 illusory offer is not superior," makes no reference to
15 regulators; correct?

16 A. That title does not, no.

17 Q. The bubble that you just read, "At its core, the
18 JetBlue proposal represents a high-cost, high-fare airline
19 buying a low-cost, low-fare airline with half the synergies
20 coming from reduced capacity and increased fares," makes no
21 reference to regulators or the Department of Justice or a
22 court; correct?

23 THE COURT: The document speaks for itself.

24 MR. TEITELBAUM: Understood, your Honor. I can
25 move on to something else.

1 THE COURT: Please.

2 MR. TEITELBAUM: Let's move on to slide 5 in this
3 presentation, please.

4 (On screen.)

5 Q. So here we see two different graphs comparing Frontier,
6 Spirit and JetBlue's passenger yield and average fare; is
7 that right?

8 A. Yes.

9 Q. And underneath those comparisons there's a blue bubble
10 that states, "JetBlue has stated it will reduce capacity and
11 raise fares on Spirit routes." Right?

12 A. Yes.

13 Q. And this slide is entitled, "At its core, the JetBlue
14 proposal," et cetera, essentially the same bubble that I
15 asked you to read previously; right?

16 A. Yes.

17 Q. And, once again, no reference to regulators?

18 A. On this slide, no.

19 Q. Okay.

20 MR. TEITELBAUM: Then if we could please move on
21 to slide 6.

22 (On screen.)

23 Q. We have three different routes or markets depicted
24 here; right?

25 A. Yes.

1 Q. And the title of this slide is, "Spirit continues to be
2 a check on JetBlue's fares"?

3 A. Yes.

4 Q. And then the slide explains, "This is a comparison of
5 JetBlue's fares on select routes pre and post Spirit's
6 entry." Right?

7 A. Yes.

8 Q. Let's take a look at the middle origin and destination
9 pair, Boston to San Juan. So what this is reflecting is in
10 connection with Spirit's entry onto the Boston to San Juan
11 route, the average JetBlue fare dropped from \$231 to \$208;
12 is that right?

13 A. I see that, yes.

14 MR. TEITELBAUM: All right. We can take that
15 exhibit down. Thank you. And, your Honor, with the Court's
16 indulgence, I can pass out copies of Exhibit 105 now that --

17 THE COURT: Go right ahead.

18 (Hanging.)

19 MR. TEITELBAUM: May I approach the bench and the
20 witness?

21 THE COURT: Please. I started out as a state
22 court judge, and I always thought that when you passed the
23 bar you were entitled to practice your profession inside the
24 railing there. So I know some judges require you to ask to
25 move around, but for all the lawyers, you don't have to ask

1 to move around. Give things to the witness, the Court, and
2 the like. No one's going to get out of line. They're not.

3 Go ahead.

4 MR. TEITELBAUM: Thank you, your Honor.

5 Q. So, Mr. Christie, if we can just back up briefly to the
6 exhibit formerly known as Exhibit 105, and do you see here
7 that this is a press release from Spirit Airlines that's
8 dated May 19th of 2022?

9 (On screen.)

10 A. Yes.

11 Q. And the title of that slide is, "Spirit Airlines' board
12 of directors urges stockholders to reject JetBlue tender
13 offer." Right?

14 A. Yes.

15 Q. Does this appear to be a fair and accurate copy of that
16 press release?

17 A. I have no reason to suspect it's not, no.

18 MR. TEITELBAUM: At this time, your Honor,
19 plaintiffs would offer Exhibit 105 in evidence, now to be
20 restored to its prior number.

21 THE COURT: Same objection, Mr. Cohen?

22 MR. COHEN: Yes, your Honor. And I assume the
23 same response, it's admitted?

24 THE COURT: You're correct. Your rights are
25 saved. Overruled. Exhibit 105 in evidence.

(Exhibit 105 received in evidence.)

Q. And I'll be brief with this exhibit. Mr. Christie, if we could please just very briefly go to the second page. And do you see the heading that's underlined and bolded? And, for the record, this is the Bates ending 882. "The Spirit board conducted a comprehensive review of the offer and recommends Spirit stockholders reject the offer for the following reasons." That's just a reflection of the resources that Spirit's board invested in analyzing JetBlue's tender offer; is that right?

A. That's right.

MR. TEITELBAUM: All right. We can take that exhibit down.

Q. All right. And then later in May of 2022, Mr. Christie, there was also a special call with Spirit's shareholders, right, on May 23rd of 2022?

A. I do recall that, yes.

Q. And, once again, there was a slide presentation connected to that call?

A. Yes.

Q. And you made a presentation in connection with that call on behalf of Spirit?

A. I did.

Q. And, once again, that presentation was filed with the SEC by Spirit Airlines; right?

1 A. I believe so, yes.

2 MR. TEITELBAUM: I'd ask that the witness be shown
3 Exhibit TF. Tom, Frank.

4 (On screen.)

5 Q. Mr. Christie, does that appear to be the slide deck
6 that we've been discussing that was filed with the SEC?

7 A. It does, yes.

8 Q. And you participated in this presentation?

9 A. I did.

10 Q. And Spirit and its management makes its best efforts to
11 communicate truthfully, accurately and completely with its
12 shareholders; right?

13 A. We do.

14 Q. And similarly, with materials filed with the SEC,
15 Spirit's management makes those same best efforts; right?

16 A. Yes.

17 MR. COHEN: Same, your Honor. And I understand.

18 THE COURT: Overruled. TF, then, will be
19 Exhibit 350?

20 MR. TEITELBAUM: Correct, your Honor.

21 THE COURT: TF, 350.

22 (Exhibit 350 received in evidence.)

23 MR. TEITELBAUM: Very briefly here, if we could
24 please publish the exhibit? It looks like it's already
25 published, and go to page 3.

1 Q. And this slide is entitled here, "Is JetBlue
2 purposefully downplaying the substantial regulatory risk?"
3 Right?

4 A. Yes.

5 Q. And this is a reference to the regulatory risk that
6 this proposed transaction would not, in fact, be able to be
7 consummated; right?

8 A. Our view of that risk, yes.

9 Q. So there's a column on the left labeled "JetBlue's
10 claim." Do you see that there?

11 A. I do.

12 Q. And the claim underneath that is, "A combined
13 Spirit/Frontier and JetBlue/Frontier will be approximately
14 the same size." Do you see that?

15 A. I do.

16 Q. One of Spirit's two responses there under the column
17 "Reality" is, "Not about size, but about type of carrier.
18 JetBlue is a high-fare carrier." Do you see that?

19 A. I do, yes.

20 Q. This reflected the views of Spirit's management as of
21 the time of this presentation; right?

22 A. As of the time referencing JetBlue as a higher --
23 relevant to -- relative to us, yes. And -- sorry.

24 Q. If we could please go on to page 8. And once again
25 here this slide is entitled, "Shareholders should think

1 about the conversation with regulators." Is that right?

2 A. I see that, yes.

3 Q. And on the left-hand side there's a statement, "A
4 JetBlue acquisition of Spirit will have lasting negative
5 impacts on consumers"?

6 A. I see that.

7 Q. And two of those impacts are, "Raises Spirit's ticket
8 prices," at the top?

9 A. Yes.

10 Q. And then the next one is, "Removes approximately
11 50 percent of the ULCC capacity in the United States." Is
12 that fair?

13 A. I see that. And these were obviously our concerns
14 about the regulatory conversation, as you can see.

15 Q. And then if we could please go to page 27.

16 A. Did you say 27?

17 THE COURT: He did.

18 Q. Yes. And during the course of this exchange, Spirit
19 actually -- I'll wait until you're there, Mr. Christie.

20 A. I'm getting there.

21 Q. Take your time.

22 And during the course of this process that played out
23 in May of 2022, Spirit's management actually referred to
24 JetBlue's statements about the transaction as propaganda; is
25 that right?

1 A. We were concerned as to whether or not their offer
2 was -- was sincere or not. We did have those concerns at
3 that time.

4 Q. And that term "propaganda" was used also in connection
5 with this SEC file presentation?

6 A. I'm on the wrong slide. But, yes, I see it there.

7 MR. TEITELBAUM: We can take that exhibit down.

8 Q. And then you also participated, during the course of
9 May of 2022, in some presentations to some proxy advisers
10 about this transaction; is that right?

11 A. I believe that's right, yeah.

12 Q. And two of those were ISS and Glass Lewis; is that
13 right?

14 A. That sounds right.

15 Q. And proxy advisers are firms that advise shareholders
16 on how they should vote on certain matters related to the
17 shares that they own; is that fair?

18 A. I think that's a good summary, yes.

19 Q. And if --

20 MR. TEITELBAUM: I'd just ask that the witness be
21 shown what's been marked for identification as TD. Tom,
22 David.

23 (On screen.)

24 Q. All right. And once again, Mr. Christie, does this
25 appear to be a fair and accurate copy of the slide deck that

1 accompanied that presentation to the proxy advisers?

2 A. I don't recall this specific presentation, but I have
3 no reason to doubt it's not complete.

4 Q. Okay. And you have no reason to doubt its
5 authenticity?

6 A. I'm sorry?

7 Q. You have no reason to doubt it's an accurate copy?

8 A. Correct.

9 MR. TEITELBAUM: At this time plaintiffs offer
10 Exhibit TD in evidence.

11 MR. COHEN: Same objection.

12 THE COURT: Same objection, same ruling. And TD
13 will be Exhibit 351 in evidence.

14 (Exhibit 351 received in evidence.)

15 MR. TEITELBAUM: And we can take that exhibit down
16 for now.

17 Q. But I do have some questions about this presentation
18 more generally, Mr. Christie. One of the things that
19 Spirit's management addressed with the proxy advisers during
20 this presentation was whether or not other ULCCs, other
21 ultra low-cost carriers, would be able to backfill the lost
22 Spirit capacity. Do you recall that?

23 A. I don't specifically, no.

24 Q. All right. So would it refresh your recollection to
25 look at the report prepared by the proxy advisers about that

1 presentation?

2 A. It may, yes.

3 Q. Okay. Why don't you take a moment to look at what's
4 marked for identification as AGJ, towards the back of your
5 binder. I would like to also pull that up on the screen but
6 not publish it.

7 (On screen.)

8 Q. And you're welcome to take a look at the presentation
9 itself, Mr. Christie. I can also direct you to the page on
10 the screen here. For the record, I'd be directing you to
11 the 15th page of the exhibit. It's the Bates ending 519,
12 and it's the second sentence of the last full paragraph.

13 MR. TEITELBAUM: We can blow that up.

14 THE COURT: Second sentence of the last full
15 paragraph?

16 MR. TEITELBAUM: Correct, your Honor.

17 MR. COHEN: Your Honor, I'm going to object.

18 THE COURT: Well, the exhibit is not in evidence.
19 This is not an admission. He hasn't asked him to read from
20 it, and no harm is done by my looking at it. So that's
21 where we stand.

22 MR. COHEN: Understood.

23 THE COURT: He's using it to see if it refreshes
24 his recollection.

25 And, in essence, when he says that, he's saying to

1 you, take a look at this part in particular, and does that
2 jog your memory about anything that your company had to say
3 in this presentation about backfilling the slots?

4 THE WITNESS: It doesn't. I don't remember the
5 meeting that well, to be honest.

6 THE COURT: All right.

7 Q. And do you recall, leaving aside this document, which
8 we can take down off the screen now, do you recall a
9 conversation during that presentation about backfilling more
10 generally?

11 A. I don't.

12 Q. And you don't recall Spirit making statements that
13 other ULCCs would be unable to backfill the lost capacity?

14 A. I don't remember that part of this meeting, no.

15 Q. Okay. So let's move on. Ultimately, JetBlue made a
16 revised tender offer to Spirit's shareholders to acquire
17 Spirit; is that right?

18 A. Moving forward from the midpart of May, I believe there
19 was another revision to the tender offer, yes.

20 Q. And the per-share price went up to \$33.50, potentially
21 going as high as \$34.15; right?

22 A. Yes. So that was at least a couple iterations forward
23 of the original tender offer, as I recall, but yes.

24 Q. And there was also a larger reverse breakup fee of
25 about \$470 million?

1 A. By the time we got to July I think that's where it was,
2 yes.

3 Q. And there was also a list of divestitures that JetBlue
4 was proposing as part of the proposed transaction; does that
5 sound right?

6 A. Over the course of that period of time I think those
7 were included, along with changes to the overall commitment
8 and covenant that JetBlue was willing to extend for
9 regulatory approval.

10 Q. And the divestitures included Spirit's assets in Newark
11 and LaGuardia?

12 A. I believe it included those two. If I'm not mistaken
13 it includes Boston, Logan Airport, as well as some of our
14 gates in Fort Lauderdale Airport.

15 Q. And those are the same divestitures that were
16 contemplated as we sit here today; right?

17 A. As far as I know. Although the covenant that they
18 committed to allows them to do considerably more pursuant to
19 that covenant.

20 Q. But as far as what's been talked about in concrete
21 terms, that's what we're talking about right now; right?

22 MR. COHEN: Objection, your Honor. 602.

23 THE COURT: Sustained on that ground.

24 Q. Mr. Christie, as the chief executive officer of Spirit
25 Airlines, are you familiar with the substance of the

1 divestiture proposals that are currently under consideration
2 with respect to the merger with JetBlue?

3 A. I am aware of those divestitures that you mentioned,
4 yes.

5 Q. And, to your knowledge, the divestitures that were
6 under consideration in May of 2022 are the same as they are
7 today; right?

8 A. Well, I know that they did make some changes when they
9 got specific about Fort Lauderdale. I don't remember
10 exactly when this was. But, yes, I think largely we're
11 talking about Boston, New York, Newark and Fort Lauderdale.

12 Q. Ultimately, Spirit's shareholders went against the
13 recommendation of the Spirit board and Spirit's management
14 and voted against a Frontier merger in the middle part of
15 2022; is that right?

16 A. The votes were coming in not in favor of the Frontier
17 merger, that's correct.

18 Q. And the vote actually never reached a final tally;
19 right?

20 A. That's right.

21 Q. And subsequently a proposed merger agreement with
22 JetBlue was approved by shareholders later in 2022; is that
23 right?

24 A. I believe it was in September, but yes.

25 Q. And we discussed before that you were recommending in

1 favor of the Frontier transaction and against the JetBlue
2 transaction during the time that that voting was going on;
3 right?

4 A. No. Well, are you referring to the voting on the
5 JetBlue merger?

6 Q. I'm referring to the voting on the Frontier merger.

7 A. Up until the Frontier pulled their, you know, their
8 proposal, we were supporting the Frontier transaction,
9 that's correct.

10 Q. But ultimately you are, as the chief executive officer,
11 accountable to your shareholders at Spirit Airlines; right?

12 A. Yes.

13 Q. And you're responsible for carrying out their will;
14 right?

15 A. Well, I'm responsible for the best interests of our
16 team, the consuming public, and all our constituents,
17 including our shareholders, and we are delegated the
18 authority to execute to our strategic plan in the best
19 interest of all those things, yes.

20 Q. But having seen the direction that the voting was
21 trending on the Frontier merger, it became clear to you that
22 the shareholders favored a combination with JetBlue over
23 Frontier; right?

24 A. Well, we knew for sure they didn't want the Frontier
25 transaction. And so I think we took it upon ourselves at

1 that point to evaluate with JetBlue and continue
2 negotiations with JetBlue, the JetBlue transaction, versus
3 our standalone prospects.

4 Q. Now, if this transaction with JetBlue goes forward, you
5 personally don't have an expectation of employment at the
6 combined carrier; is that right?

7 A. I -- I don't know. That's correct.

8 Q. But as far as you know, Robin Hayes will be the chief
9 executive officer of the combined carrier; right?

10 MR. COHEN: Objection. Relevance, your Honor.

11 THE COURT: No, it may go to his motive. On the
12 other hand, I don't know how he would know that. So I'm
13 going to sustain it.

14 MR. TEITELBAUM: I can lay some additional
15 foundation if that would be appropriate, your Honor.

16 THE COURT: I just make rulings.

17 MR. TEITELBAUM: Understood, your Honor.

18 Q. Mr. Christie, have you had any communications with
19 JetBlue's management in terms of what their plans are for
20 who will lead the combined carrier?

21 A. I'm not aware of anything specifically to me, but I am
22 aware that Robin Hayes has been designated as the CEO of the
23 company.

24 Q. And as you sit here today, do you recall the
25 compensation that you will receive if you are terminated

1 following the consummation of the merger?

2 MR. COHEN: Objection, your Honor. 403.

3 THE COURT: No, again, it goes to motive.

4 Overruled.

5 A. As a result of the completion of the merger or if I'm
6 terminated?

7 Q. As a result -- following the completion of the merger.

8 A. There is a retention agreement in place between
9 myself and the company -- myself and the company, along
10 with other members of our management team, that would
11 trigger in the event the merger was consummated.

12 Q. And, in fact, drawing a comparison between the amount
13 of money that you'll receive if you're terminated after the
14 consummation of the merger, compared to continuing as the
15 CEO of Spirit Airlines if the merger is blocked -- I'm going
16 to ask that question in a less confusing way.

17 THE COURT: No, I understand the question.

18 MR. TEITELBAUM: Understood, your Honor.

19 THE COURT: I think you understood?

20 THE WITNESS: I think he's asking me to compare.

21 THE COURT: How will you come out -- what's the
22 difference between the merger's blocked and you continue as
23 the chief executive officer, and the merger goes through and
24 you get whatever you get under this retention agreement?

25 THE WITNESS: Well, the retention agreement is

1 some multiple of my salary and bonus. So it's approximately
2 a year's worth of salary and bonus, I guess. And then -- of
3 which some of which has already been paid as a progress
4 payment. And then I believe counsel also asked in the event
5 that I'm terminated as a result of merger?

6 THE COURT: Well, we'll let him ask.

7 Q. That was my question but I'm going to break my question
8 up into two smaller parts.

9 A. Okay.

10 Q. First of all, with respect to the retention agreement,
11 in terms of the incremental additional amount that you will
12 receive, that is over a million dollars; is that fair?

13 A. You know, we get a portion regardless if the
14 transaction does or does not close. And half of that has
15 already been paid. Half will be paid if the deal does not
16 close, and then the other 50 percent would be the amount
17 you're referring to. So it's probably about that number.

18 Q. So fair to say it's at least a million dollars
19 additional if the deal does close?

20 A. I'm guessing that's right. I suspect that's right.

21 Q. Is it your understanding that that is a correct
22 estimate?

23 A. Probably so, yeah. I haven't looked at the numbers
24 closely, to be honest.

25 Q. Okay. And then stepping aside from the retention

1 bonus, there's also severance that's in place that's
2 separate from that?

3 A. I have a employment agreement with the company that
4 would direct what would happen in the event there is, for
5 example, in this case, a change of control and, in fact, I
6 am either severed for a variety of reasons or with good
7 reason. Yes.

8 Q. And, in fact, if you are severed in connection with a
9 change in control, the amount that comes to you is
10 approximately \$12 million; is that right?

11 A. I don't believe that's the number. I think the way
12 that our provisions work is I receive a payment of a
13 multiple of my salary and my bonus, and then for amounts
14 that were previously granted to me as part of my
15 compensation over the past unvested period, those amounts
16 may be accelerated. When I'm talking about "amounts," I'm
17 talking about stock in the company.

18 So the core amount, I believe, is that we would receive
19 a termination payment that's equal to a multiple, and I
20 believe it's two times my salary and my bonus.

21 Q. All right. And then I'd ask that the --

22 THE COURT: Rather than these details, let me ask
23 you, and I do this with respect.

24 THE WITNESS: Thank you.

25 THE COURT: I'm going to ask you a coarse

1 question. Are you better off financially if this goes
2 forward or it does not?

3 THE WITNESS: Well, if it goes forward and I don't
4 have a job, then I would consider that to be not as good a
5 position to be in.

6 THE COURT: Thank you.

7 MR. TEITELBAUM: And I'd just ask that the witness
8 be shown a document that we can mark for identification now,
9 and I will provide copies to opposing counsel and the Court
10 as well. If I could just ask my colleagues what the next
11 letter exhibit will be.

12 (Hanging.)

13 MR. TEITELBAUM: And I'd ask that this be marked,
14 with the Court's permission, for identification as exhibit
15 BVI. I'm sorry. BUI.

16 THE COURT: It may be marked, BUI.

17 (Exhibit BUI marked for identification.)

18 Q. And, Mr. Christie, this appears to be a -- this is an
19 SEC filing by Spirit Airlines, right, from the cover?

20 A. Yes.

21 Q. And it's dated -- it's the 2023 proxy statement,
22 according to the second page; right?

23 A. Correct.

24 Q. And if you could, please, turn to page 51, according to
25 the numbering on the actual exhibit in the lower right-hand

1 corner. And just let me know when you're there.

2 A. I see it.

3 Q. There's a -- the top section of that chart reflects
4 different termination scenarios for Edward M. Christie, III?

5 A. Yes.

6 Q. And one of those is a -- you see where it says a
7 "qualifying termination," and then there's an amount of
8 money there on the right-hand side?

9 A. I see that, yes.

10 Q. And so -- and you would agree with me that Spirit is
11 accurate in its SEC filings?

12 A. Yes.

13 Q. And what that reflects there is a \$12.4 million payment
14 in connection with a qualifying termination; right?

15 A. Well, as I said earlier, the columns, working left to
16 right, the severance amount is the amount that would be paid
17 as a multiple of my bonus and salary. I see the second
18 column is the value of unvested equity. So those are
19 previous grants that have been included in my prior
20 compensation. So they're not technically incremental, but
21 they would be accelerated as a result of the change in
22 control and qualifying termination. And then we did discuss
23 the merger retention payments, which in some cases already
24 have been paid partially.

25 Q. So if we compare -- first of all, qualifying

1 termination includes termination in connection with a change
2 in control; right?

3 A. There are -- our program requires two triggers. So
4 there has to be both a change in control and another reason,
5 either termination for a good reason or without cause.

6 Q. And you would agree with me that the difference between
7 the total amount for termination without cause and the
8 difference -- and the amount for qualifying termination is
9 approximately \$8 million; is that right?

10 A. Are you -- I'm sorry. Are you looking termination
11 without cause as 4.6 and qualifying termination, 12.4?

12 Q. Yes.

13 A. The primary driver of the difference there being that
14 my unvested equity would remain and it would just be
15 accrued.

16 Q. And if you were to remain employed at Spirit Airlines
17 as the chief executive officer without consummating the
18 transaction with JetBlue, there's no additional payments
19 coming your way, is that right, aside from your normal
20 compensation?

21 A. The normal compensation, of course the portion of the
22 retention, and this unvested equity would continue to vest.

23 MR. TEITELBAUM: No further questions for this
24 witness at this time, your Honor.

25 THE COURT: And it's 1:00. We'll suspend at this

1 time. Do you wish to -- well, I can ask you now, Mr. Cohen.
2 Do you wish to examine this witness now or reserve?

3 MR. COHEN: No, reserve, your Honor. One
4 question. Our trial order, we noticed, provided that we
5 would not be able to speak to the witness until the witness
6 is excused. I have to say, we had believed we were
7 operating under the customary rule that -- maybe not your
8 Honor's customary rule, that --

9 THE COURT: No, that's quite right. You have no
10 objection to his speaking to the witness? He examines the
11 witness. You can examine about what they spoke about.

12 MR. TEITELBAUM: Respectfully, we nonetheless do
13 object, primarily for the reason that this was an agreed
14 upon protocol between the parties, and we stand by that
15 agreement if the Court would permit us to do so.

16 THE COURT: Well, no, I'm going to revise it. I'm
17 going to allow them to talk with the witness, and everything
18 that's said between attorneys and this witness now until
19 he's excused is fair game.

20 MR. TEITELBAUM: Understood, your Honor.

21 THE COURT: All right. We'll recess until --
22 well, you may step down.

23 MR. DUFFY: We have additional deposition
24 designations. Can we provide those to Ms. Gaudet?

25 THE COURT: They're not in the book I have?

1 MR. DUFFY: They're additional designations from
2 the parties, your Honor.

3 THE COURT: Very well. That's helpful.
4 Especially now that I've heard the witness on direct.

5 So now my question, you're going to reserve so
6 he'll be excused tomorrow.

7 MR. COHEN: I'm sorry. I didn't understand. I
8 thought we would actually, unless your Honor prefers, that
9 we would just move right to our examination.

10 THE COURT: Oh, no, that's fine. Technically,
11 they've called an adverse witness so there's rules governing
12 that, and you are going to examine him now tomorrow subject
13 to those rules?

14 MR. COHEN: Yes, your Honor.

15 THE COURT: I understand. And you may step down.

16 (Whereupon the witness stepped down.)

17 THE COURT: Total elapsed time, the twenty days,
18 ten days for each side, the government has used up two hours
19 and forty-five minutes. The defense has used up
20 fifty minutes.

21 We'll stand in recess until 9:00 a.m. tomorrow
22 morning. Thank you. We'll recess.

23 THE CLERK: All rise.

24 (Proceedings adjourned.)
25

C E R T I F I C A T E

I, Cheryl B. Palanchian, Court Reporter
for the United States District Court for the
District of Massachusetts, do hereby certify that
the foregoing pages are a true and accurate
transcription of my shorthand notes taken in the
aforementioned matter to the best of my skill and
ability.

/s/ Cheryl B. Palanchian 10/31/23
CHERYL B. PALANCHIAN

Registered Merit Reporter
Certified Realtime Reporter